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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,008	10/24/2003	Alex C. Toy	1023-287US01	9358

28863 7590 08/04/2005  
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EXAMINER

KAHELIN, MICHAEL WILLIAM

ART UNIT PAPER NUMBER

3762

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,008	TOY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Kahelin	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05202005; 10/12/04; 07/02/04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on 5/20/05, 10/12/04 7/2/04 are noted. The submissions are in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show elements 107 and 113 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

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"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Please give a description of that which is new in the art to which the invention pertains. Additionally, the abstract must be at least 50 words.

***Claim Objections***

4. Claim 5 is objected to because of the following informalities: "neurostimulator" is misspelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-5, 8, 12-16, 22-26, 28-30, and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Lebel et al. (2003/0065308).
7. In regards to claims 1 and 2, Lebel et al. disclose a medical device programmer having telemetry circuitry and a display with display circuitry that is disabled during the activation of the telemetry circuitry to reduce electrical interference (par. 0257).
8. In regards to claims 4, 5, 12, 13, 15, 16, 22, 23, 24, 25, 26, 28, 29, 30, and 32, the display is enabled when the telemetry is not activated (par. 0257), the medical device is a neurostimulator (par. 0091), handheld (par. 0115), and includes an internal antenna to transmit and process received signals from the implant (par. 0216). In regards to claim 8, the display is an LCD device (par. 0067). Please note that the examiner is interpreting enabled as lit and disabled as not lit.
9. Claims 3 and 14 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lebel et al. It is inherent that an LCD display would reside on a circuit board because these devices are not flexible and

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require underlying electrical connections. Therefore, the circuit resides on a rigid structure (or board) with circuitry that drives the display. Or in the alternative, the examiner hereby takes Official Notice that it is well known in the art that circuit components, including LCD displays, are typically connected to circuit boards by soldering or other means to provide a stable means to connect circuit components. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to connect the display to a circuit board to provide a stable means to connect circuit components.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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12. Claims 6, 7, 9, 17-21, 27, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebel et al. in view of Stanton et al. (6,249,703 B1). Lebel et al. disclose the invention substantially as claimed except for providing an internal and external antenna wherein the display is enabled while the external antenna is in use and disabled when the internal antenna is in use; and placing the communication circuitry on a first circuit board and the display on a second. Stanton et al. teach of a programmer for an implantable device that comprises an internal antenna and a removable external antenna so that the main body of the programmer can be seen and operated while the antenna is in contact with the body. Therefore it would have been obvious to someone with ordinary skill in the art at the time of invention to provide Lebel et al.'s invention with an internal and external antenna so that the main body of the programmer can be seen and operated while the antenna is in contact with the body.

13. Furthermore, it is well known to those with ordinary skill in the art that the electromagnetic interference emitted from an LCD display is negligible at distances larger than a few millimeters. Therefore, it would be obvious to disable the display when using the internal antenna and enable the display when using the external antenna to provide maximum visibility to the user while minimizing EMI.

14. In regards to claims 9 and 20, Lebel et al. disclose that their invention can consist of several hybrid circuit boards (par. 0191) and a number of modules, including the ASIC and LCD display and drivers (par. 0197), to fit the particular design constraints. Therefore, it would have been obvious to one having ordinary skill in the art at the time

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of invention to place the telemetry circuit on a first circuit board and the display circuitry on another, based on the teaching of Lebel et al. to fit volumetric design constraints.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lebel et al. in view of Stanton et al. as applied to claims 6, 7, 9, 17-21, 27, and 31 above, and further in view of Stein et al. Lebel et al. in view of Stanton et al. teach of the invention essentially as claimed except for an antenna defining an aperture with a battery bay extending into the aperture. Stein et al. teach of an antenna (Fig. 9, element 66) with a battery bay (Fig. 9, element 86) in the aperture to increase the inductance of the antenna and efficiently utilize the housing volume. Therefore, it would have been obvious to someone with ordinary skill in art at the time of invention to provide Lebel et al. in view of Stanton et al.'s teaching with an antenna with a battery bay in the aperture to increase the inductance of the antenna and efficiently utilize the housing volume.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Additional examples of programmers with displays are provided.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571)272-8688. The examiner can normally be reached on M-F, 9-5.

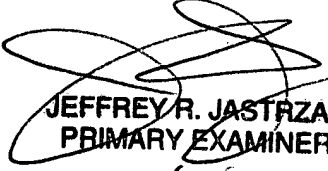
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571)272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWK

  
JEFFREY R. JASTRZAB  
PRIMARY EXAMINER  
8/2/05